



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

ORLENE HAWKS
DIRECTOR

Meadowbrook Country Club,
Petitioner,

MICHIGAN TAX TRIBUNAL

v

MOAHR Docket No. 19-002548

Northville Township,
Respondent.

Presiding Judge
Marcus L. Abood

FINAL OPINION AND JUDGMENT

INTRODUCTION

Petitioner, Meadowbrook Country Club, appeals ad valorem property tax assessment levied by Respondent, Northville Township, against Parcel No. 77-001-99-0002-702 for the 2019 tax year. Brian E. Etzel, Attorney, represented Petitioner. Laura M. Hallahan and Seth A. O'Loughlin, Attorneys, represented Respondent.

A hearing on this matter was held on February 9-12, 15, and 23, 2021. Petitioner's witnesses were Mike Rossen, John Thompson, and Michael Rende. Respondent's witnesses were Mike Rossen and John Widmer Jr.

Based on the evidence, testimony, and case file, the Tribunal finds that the true cash values (TCV), state equalized values (SEV), and taxable values (TV) of the subject property are as follows:

Parcel No.	Year	TCV	SEV	TV
77-001-99-0002-702	2019	\$5,770,000	\$2,885,000	\$2,642,326

PETITIONER'S CONTENTIONS

Petitioner contends valuing the subject as a private country club is not feasible due to the difficulty in quantifying the intangibles of membership.¹ Whether the private club's membership is successful or not should have no influence of the value of the real estate.² Petitioner contends Class "A" members' monthly dues of \$745 includes intangibles beyond the subject's real estate.³ Membership is exclusive for the benefit to be surrounded by like-minded individuals, for networking purposes, and to receive "white glove" treatment. As stated by the club manager, "Everything's got to be maintained at a very high level. So that's what we're here to do in terms of management, is to make sure we have a premier facility."⁴

Petitioner contends the club bylaws require 2/3 of the membership to approve the sale of the club. Based on member satisfaction, the high level of service as well as the club amenities, the members would not be inclined to sell the country club.

Petitioner points out that a conceptual site analysis is relevant to this appeal. Petitioner's expert civil engineer analyzed the subject property for residential redevelopment. In comparison to the Bald Mountain Golf Course redevelopment, Thompson would recommend that the subject site be rezoned to allow mixed use development.⁵

Petitioner further contends an absorption rate of 10 units per year (for a total of 147 units) would take in excess of a decade.⁶ In general, developers deem that this

¹ Vol 1, 218-219.

² Vol 1, 222.

³ Vol 1, 33.

⁴ Vol 1, 36.

⁵ Vol 1, 167.

⁶ Vol 1, 209 and 212.

length of time for an investment is too great. Rende developed a discounted cash flow (DCF) analysis to confirm the financial feasibility for the subject property as residential redevelopment.⁷ Petitioner contends redevelopment is not feasible as the project would take too many years for the annual absorption of residential units. Petitioner therefore contends residential development for the subject property is not financially feasible.

Petitioner's appraiser analyzed SEMCOG data for the Northville market. Northville is an affluent community. The search area was based on a 10-mile radius but did not include municipal golf courses.⁸

Petitioner's appraiser has appraised many private country club golf courses and the common denominator for all of those appraisals (as daily public fee golf courses) was to ascertain the value of the real estate.⁹

Petitioner's appraiser also reviewed golfing statistics through the National Golf Foundation. Golf participation declined from 27.1 million golfers in 2009 to 24.2 million as of 2019. Golf course closures were also reviewed and referenced in an article from Michigan Golfer News.

Petitioner's appraiser considered all three approaches to value but asserts that the income approach is the most applicable methodology for this tax appeal appraisal assignment. A difficulty of the sales comparison approach is quantifying numerous differences between golf courses to create a comparative analysis (i.e., adjustments). Nonetheless, the sales comparison approach was developed as additional support to the income analysis. While considered, the cost approach was not developed due to

⁷ Vol 2, 126.

⁸ Vol 4, 80.

⁹ Vol 4, 27.

the difficulty in determining depreciation. Overall, Petitioner contends more data is better than less data in the valuation of most any income property.¹⁰

Petitioner analyzed and developed income components including gross income, operating expenses, net operating income (NOI), capitalization rates (from sales, surveys, and a band of investment) to arrive at an indication of a going-concern value. Lastly, Petitioner believes business assets must be deducted in order to conclude to a value for the real property which is the focus of this appeal.

Petitioner's income analysis focused on an 18-hole equivalent and was distinguished from starts which could be 9-hole or 18-hole play. Petitioner's appraiser analyzed competing golf courses to determine rack rates for the subject as a daily fee public golf course. Reference was made to the Northville Hills, Coyote, and Fox Hills golf courses.¹¹ The market demographics analysis included a 10 and 20-mile radius search. The unit of comparison was developed on the basis of rounds per hole. Statistical analysis was developed for a participation rate but was given little weight.¹²

Again, the sales comparison approach provides additional insights and/or support to the income approach. Petitioner's appraiser admits that the comparative analysis is based on subjective and unquantified adjustments.¹³

Regarding Respondent's valuation disclosure, Petitioner challenges several key elements of Widmer's appraisal report.

First, Petitioner contends entitlements to vacant land is an important consideration to the subject's highest and best use for residential redevelopment.

¹⁰ Vol 4, 84-85.

¹¹ Vol 2, 39.

¹² Vol 2, 21-22.

¹³ Vol 2, 96-97.

Entitlements to vacant land reduce the risk to the developer's plans for redevelopment.¹⁴ Specifically, Respondent's analysis of vacant land sales with the acknowledgement of entitlements is skewed. Respondent's vacant land sales had entitlements prior to the respective purchase and closing dates. In other words, Respondent used entitled properties. Respondent did not adjust or reconcile its vacant land sales given their entitlements for development. Respondent's vacant land sales are smaller in acreage and have excessive adjustments. Likewise, Respondent did not include a financial feasibility analysis or absorption analysis for the subject's buildable lots. Respondent's conclusion for proposed lots was done so without a conceptual site plan or site costs. Whereas Petitioner contends Thompson's experience with developmental sites and the subject's site plan was detailed and properly supported. Respondent's proposed 114 units would be absorbed over a 6 to 9 year period based on Respondent's developments which showed 1 unit to 1 ½ units per month. Respondent's best land sale (Montcaret) is developed with 20,000 square feet lots and is not comparable to the subject's 1-acre lots. Moreover, Widmer's comparable land sales are developments with site condominiums and duplexes.

Next, Respondent's analysis of the subject as a country club is flawed because the intangibles are a large part of the subject's going concern value and not tied to the real estate. Respondent did not account for the members' equity portion in his country club analysis. For example, two-thirds of the subject's members voting to sell the club would indicate a decline in the club without consideration to the members' equity. While Respondent admits that a portion of initiation fees are attributable to intangible aspects,

¹⁴ Vol 2, 110.

Respondent did not give any consideration to members' dues as intangibles to the going concern value. Petitioner contends Widmer's analysis of social members and Class members does not make sense. Social members only have limited access to the golf course but still pay \$325 every month which really speaks to the intangibles. Petitioner asserts allowing a country club's dues to be part of the real estate valuation sets a problematic precedent for the assessment of private clubs.

Petitioner also refutes Respondent's analysis as a public daily fee golf course as deficient. Widmer's sales to determine number of rounds and revenue per round is not an "apples to apples" analysis. Widmer's 23,400 rounds was not based on 18-hole equivalent starts but rather as 18 hole starts. Moreover, Respondent's data includes municipal golf courses as well as 27-hole golf courses. A 30-35% increase from the subject's 23,400 rounds to 31,500 rounds for a public golf course was not supported by any market data.

Petitioner next argues Widmer's income analysis, for golf range and pro shop revenues at \$7.39/SF, was not adequately explained on cross-examination. Likewise, Widmer's expense comparables were presented anonymously. There was no detail to understand Respondent's expense analysis. Insurance expense was cut in half from a private country club to a public golf course and was insufficiently explained by Widmer.

In addition, Widmer's payroll deduction from 69% to 48% does not make sense. Petitioner refutes this change in payroll expense as Respondent says the subject's highest and best use is to remain as a private country club.¹⁵

¹⁵ Vol 6, 156.

Overall, Petitioner's appraiser analyzed more current data to determine rounds played. On the other hand, Respondent's data was outdated.

Petitioner contends the subject's R-1 zoning expressly allows for a public golf course as well as a private country club golf course. This zoning allowance makes the subject's use as a golf course legally permissible under the highest and best use analysis. Petitioner believes valuing the subject as a public daily fee golf course is the most prudent way to value the real estate separate from such intangibles found in a private country club golf course.

PETITIONER'S ADMITTED EXHIBITS

In support of its value contentions, Petitioner offered the following exhibits, which were admitted into evidence:

- P-1: Appraisal Report prepared by Michael Rende.
- P-3: Bylaws of Meadowbrook Country Club.
- P-4: Meadowbrook Country Club Prospective Member Brochure.
- P-5: Michigan Golfer News article dated April 27, 2018.
- P-6: Crain's Business Article dated June 23, 2019.
- P-7: "Golf Property Analysis and Valuation" article written by Laurence A. Hirsh.
- P-13: City of Novi Public Hearing Document – Dunhill Park Development.
- P-14: City of Novi Public Hearing Document – Dunhill Park Development.
- P-15: City of Novi Planning Commission Meeting Minutes dated September 30, 2015.
- P-19: City of Novi Planning Commission action summary dated March 23, 2016.
- P-24: Bloomfield Township Planning Commission Meeting Minutes dated April 6, 2015.
- P-27: Bloomfield Township Planning Commission Meeting Minutes dated December 19, 2016, and February 6, 2017.
- P-31: Bloomfield Township Planning Commission Meeting Minutes dated January 15, 2018.
- P-41: Conceptual Site Plan prepared by John B. Thompson.
- P-42: Qualifications of John B. Thompson.
- P-62: Aerial Photograph of the Meadowbrook Country Club driving range dated January 25, 2021.
- P-63: Aerial Photograph of the Cherry Creek Golf Club driving range dated January 6, 2021.
- P-68: Northville Township Zoning Ordinance – Chapter 170, Article 23, Tree, and Woodland Replacement.
- P-69: Zoning Ordinance.

- P-70: SEMCOG Community Profile for Green Oak Township.
- P-71: Covenant Deed for 89-acre excess parcel at Walnut Creek Country Club (entire document).
- P-72: Forest Lake Country Club Appraisal Report dated August 19, 2019.
- P-73: City of Novi Commission Transcript dated April 27, 2016.
- P-74: City of Novi Council Minutes dated May 23, 2016.
- P-75: Bloomfield Township Meeting Minutes dated June 15, 2016.
- P-77: Bloomfield Township Board of Trustees Meeting Minutes dated February 26, 2018.
- P-78: Survey Rates for 1st Quarter 2019.
- P-79: Bloomfield Township Board of Trustees Meeting Minutes (signed) dated June 15, 2016.
- P-80: City of Novi Planning Commission Minutes (signed) dated September 30, 2015.
- P-81: City of Novi Council Meeting Minutes (signed) dated May 3, 2016.
- P-82: Bloomfield Township Council Meeting Minutes (signed) dated June 15, 2016.
- P-83: Bloomfield Township Council Meeting Minutes (signed) dated February 27, 2017.
- P-84: Bloomfield Township Board of Trustees Meeting Minutes (signed) dated February 26, 2018.
- P-87: 2020 Membership Information at Salem Hills Golf Club.

PETITIONER'S WITNESSES

Petitioner's first witness, Mike Rossen, is the general manager of the Meadowbrook Country Club. His responsibilities as club manager include operation oversight for physical maintenance, financial matters, and member services. Specifically, he oversees ten departments and reports to a board of directors which meet every month. The membership is very active and vocal in maintaining conditions to the highest level possible.¹⁶ Rossen has been involved in golf course management since 1991.

Petitioner's second witness, John B. Thompson, works for Professional Engineering Group in Troy, Michigan as a land development consultant civil engineer. His specialty is in residential land development. He has been licensed as a civil

¹⁶ Vol 1, 24.

engineer for 24 years. He prepared a conceptual site plan for the subject property as residential development to determine an anticipated expected yield or density per acre for the number of lots.¹⁷

Petitioner's third witness, Michael Rende, MAI, prepared an appraisal report for the subject property. He is primarily a commercial appraiser with 43 years of valuation experience. He is licensed in the state of Michigan and designated through the Appraisal Institute. Based on his education and experience, the Tribunal accepted Mr. Rende as an expert real estate appraiser.

RESPONDENT'S CONTENTIONS

Respondent contends this case centers on the highest and best use of the subject property. The property is zoned R-1 Residential which allows for residential development. The issue of financial feasibility is not disputed. The parties' appraisers agree that the subject will produce at least 114 lots and that horizontal development costs would be between \$90,000 and \$110,000 per lot.

Respondent's appraiser points to similar high quality country clubs like the subject including Birmingham Country Club, Oakland Hills Country Club, Country Club of Detroit, Indianwood Golf & Country Club (Indianwood), and the Detroit Golf Club.¹⁸ The subject's optimal use is as a private country club golf course.

Respondent contends that the subject's renovations resulted in increased rounds of golf played as well as increased membership at the subject country club. Respondent's appraiser stated,

¹⁷ Vol 1, 112.

¹⁸ Vol 5, 7.

“You have dues that are paid by a member for the right to use the real estate, for the right to use the real property. The services that they’re rendered are expended at a higher level than if it’s not high-quality level of service, like at Meadowbrook. So, no, I think it’s - - - they’re paying to reflect what that real estate can garner.”¹⁹

The renovations are a further indication of the subject’s continued viability as a country club golf course.

Respondent considered all three approaches to value but only developed the sales comparison and income approaches to value. Respondent’s appraiser concluded that the subject’s highest and best use, as vacant, is for residential development and, as improved, is as a private country club golf course.

Respondent’s sales comparison approach for vacant land is tied to the financial feasibility analysis within his highest and best use determination.²⁰ The comparative analysis was specifically developed for vacant land in the subject market. Respondent’s appraiser analyzed 5 developments as evidence of market demand even though these sales are smaller acreage developments. These sales comparisons included the zoning for each sale and the density per acre.²¹ The subject property, as vacant, would attract the same national developers as those smaller developments analyzed by Respondent’s appraiser. Widmer concludes to 114 lots for the subject property as developed. Widmer’s concluded analysis for the subject’s developed lots at \$650,000 to \$800,000 is reasonable and supported by his land sales.²²

¹⁹ Vol 5, 91-92.

²⁰ Vol 4, 178-179.

²¹ Vol 4, 186-187.

²² Vol 4, 209.

Additionally, Respondent's sales comparison approach included a gross income multiplier (GIM) to analyze golf course sales without a going-concern element. This methodology was developed as a test of reasonableness to the income approach.

For the income analysis, Respondent contends 18-hole starts and 18-hole equivalent are treated synonymously. Widmer concluded to 31,500 18-hole equivalent rounds for the subject.²³ Widmer analyzed capitalization rates with consideration to capital reserves.²⁴ The subject data was applied to market data from competing golf courses. Widmer also reviewed revenue for rounds of country club golf courses including Pine Lake, Plum Hollow, Indianwood, Forest Lake, Detroit, Lenawee, and Great Oaks. Widmer's private golf course analysis is a variation of the income approach. Widmer capitalizes the NOI or earnings before interest, taxes, depreciation, and amortization (EBITDA). Widmer's highest and best use analysis (and application of 4 tests) supports the conclusion as a private country club golf course. All weight and reliance on the income approach.

Respondent refutes specific elements of Petitioner's valuation evidence. First, Petitioner's conceptual site plan was not based on the effective tax day of December 31, 2018. Respondent objects to Petitioner's conceptual site plan as being a valuation document for which Mr. Thompson was not admitted as an expert in valuation. Second, Petitioner's DCF is filled with inconsistencies and subjective inputs. Respondent's appraiser contends the application of a purchase price and demolition costs are ill-advised in a DCF methodology.²⁵ Moreover, Respondent refutes Rende's application of

²³ Vol 5, 45.

²⁴ Vol 5, 62.

²⁵ Vol 5, 82-83.

property taxes in his DCF as inconsistent and illogical. Third, Respondent contends discounts to an average daily rate is inappropriate. The conclusion of an average rate per 18 holes of golf encompasses those variations in 9- hole play, 18-hole play, weekday play and weekend play.²⁶ Fourth, Widmer would not use golf cart reserve or replacement and then deduct golf carts from an indicated income value.²⁷ This amounts to double counting (a.k.a. double dipping). Fifth, Rende's sales comparison approach relied on data from other appraisal reports which Rende did not confirm or verify.²⁸ Such unverified data is unacceptable. Sixth, Rende's sales comparison adjustments were not analyzed or supported other than by Rende's own knowledge and experience. Likewise, unit adjustments versus acre adjustments were confusing. Lastly, the subject is not legally possible as a public golf course because it would require a variance. The R-1 zoning includes a golf course use, but Rende admitted that the subject is not legally permissible as a public golf course without a variance. Widmer considered the subject as a public golf course but believes this use is not legally permissible.

Respondent defends its allocation of the subject's real estate from specific intangibles. First, Widmer partially quantified the subject's country club income relative to the real estate.²⁹ Second, Widmer attributed membership dues to the real estate and did not allocate any portion to intangibles.³⁰ The 4-year financial history was analyzed to conclude to the subject as a non-profit, member equity country club. The member's initiation fees were analyzed against the members' equity to derive that portion which is

²⁶ Vol 5, 90.

²⁷ Vol 5, 98.

²⁸ *Walnut Creek Country Club v Lyon Township*, MTT Docket No. 17-002531.

²⁹ Vol 6, 136 and R-1, 109-111.

³⁰ Vol 6, 138-139.

attributable to the real estate.³¹ The subject's income was reviewed on the basis of EBITDA.³² Respondent contends that if the subject was purchased, the members' equity of \$12,000 (for 325 members) equals \$3.9 million and is not part of the EBITDA or valuation.³³ Third, the difference between social members (\$325 dues) and Class A members (\$745) signifies a 43% difference solely attributed to the golf course. The dues allow full members to use the real estate and its improvements. The initiation fees give members the ability to rub elbows with others in the exclusive setting. Respondent has properly considered and deducted intangibles from the subject's going concern value.

Next, Respondent argues entitlements are not completed at the time of a purchase agreement. A buyer has a period of due diligence in securing those entitlements to develop raw land into a viable site.³⁴ Respondent's land sales represented those values as of the date of purchase. Respondent's land sales were not adjusted for entitlements. Widmer's comparative land analysis was well supported with objective, quantified adjustments and did not rely on data from other appraisal reports. The analysis included horizontal costs and implied home pricing with consideration for development through a national builder. Nonetheless, Respondent asserts the highest and best use of the subject is as a private country club golf course.

RESPONDENT'S ADMITTED EXHIBITS

In support of its value contentions, Respondent offered the following exhibits, which were admitted into evidence:

³¹ Vol 6, 145.

³² Vol 6, 147.

³³ Vol 6, 150.

³⁴ Vol 6, 163-164.

- R-1: Appraisal Report prepared by John Widmer.
- R-4: Meadowbrook Country Club Prospective Member Brochure.
- R-5: Crain's Detroit Business article published on July 23, 2017.
- R-8: 2016 and 2017 IRS Tax Form 990.
- R-10: Plat Map of the Enclave Subdivision.
- R-11: Plat Map for the Montcaret Subdivision.
- R-12: Plat Map for the Forest Edge Subdivision.
- R-13: Plat Map for Ridge Hill Development.
- R-14: Zoning Map for Northville Township.
- R-15: BS&A Export of The Enclave Subdivision Properties Sold.
- R-16: BS&A Export of Montcaret Subdivision Properties Sold.
- R-17: BS&A Export of Forest Edge Subdivision Properties Sold.
- R-18: BS&A Export of Ridge Hill Development Properties Sold.
- R-23: BS&A Export of Mill Ridge Subdivision Properties Sold.
- R-24: Plat Map for Mill Ridge Subdivision.
- R-25: Rende Workfile page 000174.
- R-26: Rende Workfile page 000177.
- R-27: Petitioner's Land Sale 2, Property Transfer Affidavits, pages 5 and 6 (paginated pages R-6 and R-7, Docket 17-002531).
- R-28: Condominium Site Development in Green Oak Township (Petitioner's land sale 1).

RESPONDENT'S WITNESSES

Respondent's first witness was Michael Rossen, manager of the subject country club. He presented testimony regarding club membership, club renovations and guest fees.

Respondent's second witness was John Widmer Jr., MAI. He is a commercial appraiser licensed in the state of Michigan. He has experience in golf course valuation and has appraised the subject several times in the past 10 years. Based on his background, education and experience, the Tribunal accepted Mr. Widmer as an expert real estate appraiser.

FINDINGS OF FACT

1. The subject property is located at 40941 Eight Mile Road and within Wayne County.
2. The subject property is zoned R-1, Residential.

3. The subject's golf course use is permitted under a special land use permit. Said differently, the subject's use is a legal nonconforming use to the specific zoning.
4. The subject R-1 zoning allows for 1-acre lots only.³⁵
5. The subject is a private golf course comprised of 184.4 acres in Northville Township. The property is improved with an 18-hole golf course, clubhouse, driving range, 4 tennis courts, 3 swimming pools and maintenance/equipment buildings.
6. The subject is located on 8-mile Road and is ½ mile from I-96 and I-275 freeways.
7. The subject's golf course was built in 1916 and the clubhouse was constructed in 1926.
8. As of December 31, 2018, the subject property was improved as a private equity non-profit golf course.
9. The subject's clubhouse and golf course were renovated from 2015 to 2017. The golf course reopened in May 2017.³⁶ The total cost of the renovations was \$11.34 million dollars.
10. The subject country club has 325 Class A members and 127 social members. Initiation fees range between \$46,000 and \$49,000. Full member monthly dues are \$745 plus \$600 for quarterly food/beverage minimums.
11. Petitioner submitted a valuation disclosure in the form of a narrative appraisal report prepared by Michael Rende.
12. Petitioner's appraiser considered all three approaches to value but only developed the income and sales comparison approaches.
13. Petitioner's contention of highest and best use for the subject property is as a public daily fee golf course.
14. Petitioner's Exhibit P-1 (pages 85-87) included a list of golf course closures. The summary list did not include a date of closure for each golf course.
15. Petitioner engaged John Thompson to perform a conceptual site plan for the subject property on January 8, 2021. This conceptual site plan was completed on January 25, 2021.³⁷
16. At the time of his engagement, Thompson was provided with Petitioner's appraisal report and Respondent's appraisal report.³⁸
17. Thompson used a "general rule of thumb" of 18% for soft costs in a conceptual site plan analysis.
18. Thompson used a "general rule of thumb" of 70-80% of a property utilized for development.³⁹
19. Thompson's conceptual site plan proposed 101 units from 150 acres as taken from a total of 184 acres.⁴⁰

³⁵ Vol 1, 115.

³⁶ Vol 5, 15.

³⁷ Thompson was not offered as an expert witness.

³⁸ Vol 1, 116 and 150.

³⁹ Vol 1, 122.

⁴⁰ Vol 1, 123.

20. Thompson is a licensed civil engineer in the state of Michigan. Thompson is not a licensed real estate agent or a licensed real estate appraiser in the state of Michigan.
21. Petitioner's appraiser has appraised country clubs at Paint Creek, St. Clair River, Pine Lake, Gull Lake, Forest Lake, Indianwood, Barton Hills and Spring Meadows. All of these courses were appraised as daily public fee golf courses but continue as a private country clubs.⁴¹
22. Respondent submitted a valuation disclosure in the form of a narrative appraisal report prepared by John Widmer.
23. Respondent's appraisal report considered all three approaches to value but only developed the sales comparison and income approaches to value.
24. Respondent reviewed and analyzed the history of rounds played at the subject golf course. This information was obtained from Meadowbrook Country Club.
25. Respondent reviewed a site development plan (received from Petitioner's counsel Fred Gordon) in the development of its highest and best use analysis.
26. Respondent applied the four tests of highest and best use analysis to the 1) comparison of land sales, 2) comparison of improved sales, 3) income analysis for a public golf course and 4) income analysis for a private country club.
27. Respondent's income analysis included the revenue and expense information for the Walnut Creek Country Club.
28. Respondent analyzed the subject's 2016 and 2017 Return of Organization Exempt from Income Tax (Form 990).
29. The subject outperformed Pine Lake Country Club and Plum Hollow Country Club in golf rounds played and in terms of golf revenue.⁴²
30. Neither party's appraiser adjusted for entitlements with regards to their respective vacant land comparable sales.
31. The subject would require a zoning variance to become a public daily fee golf course.
32. The parties' highest and best use analysis (as vacant) for the subject is to hold for future development.
33. The subject had a waiting list for new members as of December 31, 2018.⁴³
34. The subject is a premiere private country club with "white glove" service.⁴⁴

⁴¹ Vol 2, 169-170.

⁴² Vol 5, 40.

⁴³ Vol 3, 102; Vol 4, 120.

⁴⁴ Vol 1, 204, 219; Vol 3, 217-218; Vol 5, 91; Vol 6, 148.

CONCLUSIONS OF LAW

The assessment of real and personal property in Michigan is governed by the constitutional standard that such property shall not be assessed in excess of 50% of its true cash value.⁴⁵

The legislature shall provide for the uniform general ad valorem taxation of real and tangible personal property not exempt by law except for taxes levied for school operating purposes. The legislature shall provide for the determination of true cash value of such property; the proportion of true cash value at which such property shall be uniformly assessed, which shall not . . . exceed 50 percent. . . .⁴⁶

The Michigan Legislature has defined “true cash value” to mean:

The usual selling price at the place where the property to which the term is applied is at the time of assessment, being the price that could be obtained for the property at private sale, and not at auction sale except as otherwise provided in this section, or at forced sale.⁴⁷

The Michigan Supreme Court has determined that “[t]he concepts of ‘true cash value’ and ‘fair market value’ . . . are synonymous.”⁴⁸

“By provisions of [MCL] 205.737(1) . . . , the Legislature requires the Tax Tribunal to make a finding of true cash value in arriving at its determination of a lawful property assessment.”⁴⁹ The Tribunal is not bound to accept either of the parties' theories of valuation.⁵⁰ “It is the Tax Tribunal's duty to determine which approaches are useful in providing the most accurate valuation under the individual circumstances of each

⁴⁵ See MCL 211.27a.

⁴⁶ Const 1963, art 9, sec 3.

⁴⁷ MCL 211.27(1).

⁴⁸ *CAF Investment Co v Michigan State Tax Comm*, 392 Mich 442, 450; 221 NW2d 588 (1974).

⁴⁹ *Alhi Dev Co v Orion Twp*, 110 Mich App 764, 767; 314 NW2d 479 (1981).

⁵⁰ *Teledyne Continental Motors v Muskegon Twp*, 145 Mich App 749, 754; 378 NW2d 590 (1985).

case.”⁵¹ In that regard, the Tribunal “may accept one theory and reject the other, it may reject both theories, or it may utilize a combination of both in arriving at its determination.”⁵²

A proceeding before the Tax Tribunal is original, independent, and de novo.⁵³ The Tribunal's factual findings must be supported “by competent, material, and substantial evidence.”⁵⁴ “Substantial evidence must be more than a scintilla of evidence, although it may be substantially less than a preponderance of the evidence.”⁵⁵

“The petitioner has the burden of proof in establishing the true cash value of the property.”⁵⁶ “This burden encompasses two separate concepts: (1) the burden of persuasion, which does not shift during the course of the hearing, and (2) the burden of going forward with the evidence, which may shift to the opposing party.”⁵⁷ However, “[t]he assessing agency has the burden of proof in establishing the ratio of the average level of assessments in relation to true cash values in the assessment district and the equalization factor that was uniformly applied in the assessment district for the year in question.”⁵⁸

The three most common approaches to valuation are the capitalization of income approach, the sales comparison, or market approach, and the cost-less-depreciation

⁵¹ *Meadowlanes Ltd Dividend Housing Ass’n v Holland*, 437 Mich 473, 485; 473 NW2d 636 (1991).

⁵² *Jones & Laughlin Steel Corp v City of Warren*, 193 Mich App 348, 356; 483 NW2d 416 (1992).

⁵³ MCL 205.735a(2).

⁵⁴ *Dow Chemical Co v Dep’t of Treasury*, 185 Mich App 458, 462-463; 462 NW2d 765 (1990).

⁵⁵ *Jones & Laughlin Steel Corp*, *supra* at 352-353.

⁵⁶ MCL 205.737(3).

⁵⁷ *Jones & Laughlin Steel Corp*, *supra* at 354-355.

⁵⁸ MCL 205.737(3).

approach.⁵⁹ “The market approach is the only valuation method that directly reflects the balance of supply and demand for property in marketplace trading.”⁶⁰ The Tribunal is under a duty to apply its own expertise to the facts of the case to determine the appropriate method of arriving at the true cash value of the property, utilizing an approach that provides the most accurate valuation under the circumstances.⁶¹ Regardless of the valuation approach employed, the final valuation determined must represent the usual price for which the subject would sell.⁶²

MARKET DESCRIPTION AND ANALYSIS

“The identification and interpretation of real estate markets are analytical processes.”⁶³ The springboard to meaningful opinions, analyses and conclusions starts with understanding a subject property’s surroundings. Here, Petitioner’s market analysis, as questioned by Respondent, did not fully capture market attributes. Petitioner analyzed the subject demographics on the basis of radius circles but admitted that there were no specific demographics for Northville Township.⁶⁴ Further, Rende’s conclusory statement about “intense development in the immediate neighborhood”⁶⁵ was admittedly broad and vague without any support.⁶⁶ Petitioner acknowledged that the northeast corner of Northville Township is developed with the Maybury State Park. However, Rende did not identify or analyze any residential vacant parcels within the

⁵⁹ *Meadowlanes*, *supra* at 484-485; *Pantlind Hotel Co v State Tax Comm*, 3 Mich App 170, 176; 141 NW2d 699 (1966), *aff’d* 380 Mich 390 (1968).

⁶⁰ *Jones & Laughlin Steel Corp*, *supra* at 353 (citing *Antisdale v City of Galesburg*, 420 Mich 265; 362 NW2d 632 (1984) at 276 n 1).

⁶¹ *Antisdale*, *supra* at 277.

⁶² See *Meadowlanes Ltd Dividend Housing Ass’n v Holland*, 437 Mich 473, 485; 473 NW2d 636 (1991).

⁶³ Appraisal Institute, *The Appraisal of Real Estate*, (Chicago: 15th ed, 2020), p 137.

⁶⁴ Vol 2, 178-179.

⁶⁵ P-1, 64.

⁶⁶ Vol 2, 181 and 185.

township.⁶⁷ Regarding golf course closures, Petitioner's appraisal report did not include any specifics for this data (i.e., date of closure, public/private course, number of holes, location in the state, etc.). The further reference of 12 other golf courses in Michigan omitted their specific locations in the state. Closures in 2018 did not include relevant specifics and was followed by another ambiguous statements about the local economy and golf industry.⁶⁸ Likewise, Petitioner's appraisal report included the misstatement regarding those golf courses not part of the 10-mile radius for the subject market.⁶⁹ Lastly, Petitioner's SEMCOG data did not include any specific analysis from Petitioner's appraiser. In other words, the cut/paste data pages were not summarized or given articulation by Petitioner's appraiser.⁷⁰ Respondent questioned and refuted Petitioner's reference and reliance on a 2013 National Golf Foundation (NGF) publication as well as a 2016 golf article and the relevance to the tax day.⁷¹

On the other hand, Respondent's appraisal report cited the NGF 2017 publication depicting the golf outlook as strong and popular. Again, Petitioner's golf outlook and data did not properly portray the golf industry leading up to December 31, 2018. Respondent described the supply and demand of golf courses (while denoting specific closures) which was more persuasive than the suggestion that the golf industry is strictly a picture of gloom and doom. Respondent's market considerations for the average golfer included price point, quality of play and proximity.⁷² Respondent

⁶⁷ Vol 2, 191 and 194.

⁶⁸ P-1, 76,79, 80, 84.

⁶⁹ P-1, 97-98 and Vol 3, 154.

⁷⁰ Equally unpersuasive is Rende's vague statement on page 70 of his appraisal report with reference to "preceding page." Likewise, conclusory statements on pages 100-101 was not supported by any data.

⁷¹ P-1, 125-126.

⁷² Vol 5, 73-74.

reviewed Northville Township demographics as well to gain an initial prospective. In other words, the subject's placement within the township was considered and analyzed.

Respondent's demographic descriptions and analysis are specific to Northville Township. Further, consideration was given to 5, 10, and 20-mile radii for market characteristics. Information such as household income, land uses, residential building permits, and a summary of lot sales was analyzed in conjunction with the subject's highest and best use. Market influences including golf course statistics were analyzed relative to the subject. The overall information, analysis, and cross reference to other sections of the appraisal report demonstrated consistency and persuasion.

Petitioner's radius circles for a market analysis are not more persuasive than Respondent's specific market description and analysis of Northville Township. Therefore, Petitioner's market description and analysis is given no weight or credibility in the independent determination of market value for the subject property.

HIGHEST AND BEST USE

The analysis of *highest and best use*⁷³ through four tests is pivotal in an appraisal assignment leading up to the approaches to value. More specifically, each test is not analyzed separate from the other tests. While there is a level of overlap between the four tests, if a particular use fails in one test, then that use fails outright. The Tribunal will consider each test from the parties' appraisers valuation evidence. As noted in the Findings of Fact, the parties have determined that the subject use (as vacant) is for future development. Therefore, the Tribunal shall weigh and consider the 4 tests for the subject as improved.

⁷³ Appraisal Institute, *The Appraisal of Real Estate* (Chicago: 15th ed, 2020), 305-315.

Physically Possible

Each appraiser applied the test of physically possible to the subject property for potential uses. Each appraiser acknowledged that the subject's physical characteristics are conducive for a variety of development. The parties' mutual acknowledgement to the physical nature of the subject site (as vacant) is reasonable. The Tribunal accepts the common analysis for the subject site (as vacant) as physically possible as a golf course.

As improved, Petitioner stated the subject is suitable as both a private and public golf course. On the other hand, Respondent deferred his "as improved" analysis to the application of the sales and income approaches. Nonetheless, the subject's use is manifested by the present use as a golf course. The Tribunal is persuaded that the subject's existing use (as improved) is physically possible as a golf course.

Legally Permissible

Second, the test of legally permissible was applied to the subject property as to the potential uses. Petitioner's legal permissibility analysis considered the present R-1 Single Family Residential zoning. The township requires 1-acre sites for residential development. Petitioner spoke with 3 developers for the needed percentage of land devoted to infrastructure versus the actual acreage for residential sites. Petitioner further considered the "sell off" of new construction at 6.33 units per year. In other words, Petitioner opines that the subject site is legally acceptable for residential use. Petitioner also believes the subject's existing use as a golf course under R-1 zoning is acceptable and that there is "no basis to argue that the current zoning is confiscatory."⁷⁴

⁷⁴ P-1, 73.

Lastly, Petitioner concluded that the subject's use as a private or public golf course would require a special land use permit. As will be discussed further in this decision, Respondent's application, and analysis under legal permissibility (as improved) is persuasive to the true cash value of the subject property.

Financially Feasible

Third, Petitioner applied the test of financially feasible to the subject property as to potential uses. Petitioner considered the potential of 147 single family sites to the subject's 184 acres. Review of available land for development, a history of building permits on an annual basis, a reasonable market capture, and an absorption rate resulted in greater overall risk to develop the subject for residential development. As stated by Rende, "In summary, the increased risk resulting from an extended absorption period results in a lower value attributable to the underlying vacant site. If the risk is perceived to be too high, a knowledgeable developer will simply choose to 'pass' on the opportunity to acquire the property at any price."⁷⁵ Petitioner opines that a developer's risk is too great for residential development for the subject property. Overall, the Tribunal concurs that the financial feasibility for the subject, as improved, is not as residential development. Next, Petitioner's appraiser further stated, "Like other private country clubs in Michigan, the subject has experienced increasing difficulty in getting and keeping equity members."⁷⁶ Petitioner contends initiation fees, dues costs, and a lack of disposable income for country club memberships. Rende further stated, "In short, all of these factors suggest that continued operation of the subject facility as a

⁷⁵ P-1, 72.

⁷⁶ P-1, 73.

private country club may not be sustainable.”⁷⁷ Petitioner’s reference to initiation fees is vague and created the impression that the subject is having difficulties as a country club. Petitioner’s valuation as a public golf course would still necessitate the income analysis including the “financial feasibility” of the subject’s private country club.⁷⁸ Credibility in stating the subject’s facts in the highest and best use analysis is equally important as the highest and best use itself.⁷⁹ The Tribunal does not accept Petitioner’s premise that the subject is not viable as a private country club golf course. As will be discussed further in this decision, Respondent’s analysis, and application (as improved) is persuasive to the true cash value of the subject property.

Maximally Productive

Fourth, the test of maximally profitable is applied to the subject property as to the potential uses. Again, Petitioner’s appraiser concludes the subject site would be to remain as vacant for future development which demonstrates financial viability. Petitioner summarized that the maximally productive use of the subject (as improved) as a public daily fee golf course.⁸⁰ Petitioner reasoned that the subject is not viable as a country club because memberships in southeast Michigan have declined.⁸¹ As a matter of fact, the subject’s memberships have not declined. Respondent challenged Petitioner’s appraiser that the value of a private country club is just as great as the value as a public golf course. As will be discussed further in this opinion, Respondent’s

⁷⁷ P-1, 74.

⁷⁸ Vol 3, 104-106.

⁷⁹ P-1, 74. Rende’s statements appear to discredit his own analysis.

⁸⁰ Petitioner’s highest and best use analysis resulted in a final conclusion within the test of maximum productivity itself. This particular test is not to be confused as a final conclusion to the overall analysis. Rende admitted to this confusion and agreed that a summary statement for all 4 tests would be preferable.

⁸¹ Vol 3, 96 and 134; P-1, 74.

maximally productive analysis and application (as improved) is persuasive to the market value of the subject property.

COST APPROACH

As noted in the Finding of Facts, the parties' appraisers considered but did not develop the cost approach to value. This approach was described as irrelevant to an investor or purchaser's potential interest in acquiring a public or private country golf course. Therefore, this approach to value is not applied in this tax appeal matter.

SALES COMPARISON APPROACH (as improved)

Petitioner's sales comparison approach is a conventional framework for a comparative analysis of the subject property. However, Petitioner's comparative analysis has inconsistencies which were acknowledged by Petitioner's appraiser. First, Petitioner's appraiser admitted that a comparative analysis is quite subjective. The quantification of adjustments "...are intended to 'mirror' the thought process of a typical and knowledgeable purchaser in this market."⁸² Petitioner's adjustments were made on the basis of the appraiser's knowledge and experience. No reference was made to market support within the report or workfile. The fixation on quantitative adjustments did not give consideration or credence to *qualitative analysis*⁸³ from Petitioner's comparative analysis. A qualitative adjustment analysis is also an applicable methodology in valuation practice and theory. Second, all eight sales are skewed and adjusted upward to the subject. In other words, no sales were adjusted downward to the subject. No explanation was given for the lack of bracketing to the subject. Third,

⁸² P-1, 130.

⁸³ Appraisal Institute, *The Appraisal of Real Estate* (Chicago: 15th ed, 2020), pp 376-377.

the sales did not include customary write-ups for each golf course. Typically, a summary of salient features for each property will aid a reader's overview of the adjustment grid and general narration. Likewise, delineating a property as a public golf course, a municipal golf course or a private country club would give better understanding for the underlying analysis.⁸⁴ Fourth, Rende reasoned that his sales comparison approach is cautiously developed by utilizing a GIM of 1. Petitioner's analytical reasoning was called into question.⁸⁵ As questioned by Respondent, the resulting indication of value from Petitioner's GIM from the sales comparison approach is the same as the income approach. Fifth, the comparative analysis as a check on reasonableness to the income approach is illogical. Said differently, a comparative analysis that is admittedly subjective is then not persuasively used as support for another approach to value. The stated weakness of this approach would not then logically support Petitioner's income approach to value. For these reasons, Petitioner's sales comparison approach (as an improved daily public fee golf course) is given no weight or consideration in the independent determination of market value for the subject property.

Respondent's sales comparison approach (for the subject as an improved golf course) is also a conventional framework for a comparative analysis. Respondent described 11 golf course sales to discern sale prices, \$/hole, \$/acre, and a GIM. This approach also included a brief write-up for each sale. However, Respondent's comparative analysis similarly included inconsistencies and gaps. First, the

⁸⁴ Petitioner's appraiser nonetheless included customary write-ups for his vacant land sales. Having write-ups for improved properties in a comparative analysis is a reasonable expectation in valuation practice.

⁸⁵ Vol 2, 57 and 59.

combination of private country clubs and public golf courses is baffling. The combined treatment of both types of golf courses in this approach is nonsensical where this tax appeal matter is focused on their very differences. Ample testimony from the parties' appraisers indicated a marked difference between the two types of golf courses.

Second, Respondent's narrative for the sales' adjustments was prefaced by "paired data" analysis⁸⁶. Respondent's appraiser references "appraisal theory" but neglected to touch upon appraisal practice in this regard. Paired data analysis is a methodology to isolate a property element between two properties which are otherwise identical in characteristics and amenities. For example, paired sales of golf course properties are certainly not more probable than post-war residential cape cod style tract housing. Research and analysis of commercial paired sales would surely be exhaustive and time consuming. The Tribunal is not persuaded that such a methodology is attainable especially given the fact that Respondent's appraiser did not illustrate any paired sales analysis of identical golf courses to isolate any characteristic or amenity which would correlate to the difference in their respective sale prices. Third, the narration for the various adjustments was merely the consideration of adjustments to each sale. In other words, Respondent's discussion of adjustments did not result in actual adjustments to each sale. Fourth, Sales 1-7 occurred between May 2008 and April 2014. Older sales may be relevant to demonstrate market activity as well as the presence of similar properties to the subject.⁸⁷ Likewise, older data may illustrate a particular market trend analysis going forward in time. Nonetheless, these sales are too far removed from the

⁸⁶ Appraisal Institute, *The Dictionary of Real Estate Appraisal*, (Chicago: 6th ed, 2015), p 167.

⁸⁷ Reassuring the reader that a perceived unique property does exist in a market justifies the need to cite older sales. On the other hand, using older sales for direct comparison necessitates further articulation by an appraiser.

December 31, 2018, tax day. Fifth, Respondent's appraiser leaves the reader of his report hanging without an indication of value from the comparative analysis. Rather, the appraiser wants a reader to see what results come from his income analysis. The comparative analysis concluded with a description of a GIM but does not result in an indication of value from the actual sales data. For these reasons, Respondent's sales comparison approach for an improved golf course is given no weight or credibility in the independent determination of market value for the subject property.

ENTITLEMENTS

Exhaustive efforts in threshing out varying levels of entitlements to specific vacant site sales is without substance or merit. Petitioner's appraiser did not make any adjustments to his vacant land sales and assumed no entitlements.⁸⁸ Similarly, Respondent's appraiser made no adjustments for entitlements to his land sales.⁸⁹ On cross examination, Respondent's appraiser stated that a buyer and seller agree on a price and that the closing date is the pivotal date for a comparative analysis. Exhibits in the form of meeting minutes months prior to the sale date are not necessarily part of an appraiser's due diligence in the normal course of business.⁹⁰ Said differently, appraisers' peers and intended users' expectations may not seek out such entitlement information for a vacant land sale. As stated by Petitioner's engineer expert, "There are virtually no developers that will have purchased a property before the site is fully entitled."⁹¹ The parties' appraisers' reliance on vacant land sales without the need for

⁸⁸ Vol 2, 117.

⁸⁹ Vol 3, 42.

⁹⁰ The Appraisal Foundation, *Uniform Standards of Professional Appraisal Practice* (Washington D.C., 2018-2019 ed.) pp 18 and 135.

⁹¹ Vol 1, 88.

adjustments to entitlements is noteworthy. The Tribunal has considered the issues and testimony surrounding entitlements; this element is given no weight or credibility in the determination of market value for the subject property.

VACANT LAND SALES ANALYSIS

Regarding the vacant land sales analysis, Petitioner's appraiser's adjustments were admittedly subjective and are based on years of experience in reviewing similar transactions.⁹² Petitioner's appraiser claimed many factors are involved with his vacant land sales analysis, but what those factors were, remained a question, and whether any reader is able to follow Rende's analysis and resulting indication of value. First, Petitioner's appraiser admitted to errors in his calculations for "units/acre" density for his comparables.⁹³ Rende did not know as fact if his vacant land sales were cash equivalents.⁹⁴ Second, Petitioner's appraiser's testimony contradicts his adjustments for vacant land size. While testifying that other things are at issue, Rende says his report statement that "no other differences for size adjustments" is correct. Petitioner's sales adjustment grid omitted considerations for soil conditions and remediations.⁹⁵ Third, Petitioner's land sale 2 (Walnut Creek) did not include or disclose the 2nd sale of this property.⁹⁶ Rende is unable to quantify the changes in sale 2 for the increase of \$500,000 from the January 2018 sale to the March 2018 sale.⁹⁷ No explanation was given for the prevalence of the first sale over the subsequent sale of the Walnut Creek property. Fourth, Petitioner's vacant land sales did not include sales histories. An

⁹² Vol 3, 45-46.

⁹³ Vol 3, 50.

⁹⁴ Vol 3, 14.

⁹⁵ Vol 3, 56.

⁹⁶ Vol 3, 60.

⁹⁷ Vol 3, 62-64.

asserted compliance with professional standards and ethics did not align with the omission of sales histories. Such write-ups for descriptions and sales histories are customary in appraisal practice. Fifth, demolition costs were based on Rende's own opinion.⁹⁸ Given the numerous subject improvements, support for demolition costs would be expected. Similarly, Rende indicated that the market appreciated upward to tax day at 3% per annum. This was in reference to his vacant land sales. Sixth, Rende says 60 acres are wetlands, but the lingering question remained as to how 60 acres was carved out of the subject's 184 acres. Rende had no analysis for the cost remediation of the 60 acres of wetlands.⁹⁹ From this land analysis, Petitioner admitted that its site plan for the subject as residential redevelopment was a "conceptual" determination.¹⁰⁰ Seventh, Rende's information for his vacant land sales came from another appraiser's report.¹⁰¹ Gaps in information for his vacant land sales appear to be a carryover from a lack of verification from other appraisers. Appraisers must account for the information that they receive from other sources; an appraiser must verify that information and not merely take it as a given. Once again, Petitioner's due diligence was called into question for professional data verification. Eighth, Rende did not research developments in Northville Township.¹⁰² Given the demographics and noted affluence of this specific market area, greater market analysis would be expected. Ninth, as questioned by Respondent, Petitioner's sale 4 had planned units of 95 on an 80 acre parcel, but the actual delineation was 1 unit per acre at sale date. Tenth,

⁹⁸ Vol 2, 122.

⁹⁹ Vol 3, 11-12.

¹⁰⁰ Vol 3, 12.

¹⁰¹ Vol 4, 50. Also See *Walnut Creek Country Club v Lyon Township* (MTT Docket No. 17-002531).

¹⁰² Vol 3, 67-68.

Petitioner's method of reconciliation is less than persuasive. Petitioner gives less weight to sale 1 but then averages the remaining 3 vacant land sales.¹⁰³ For these reasons, Petitioner's land sales analysis is given no weight or credibility in the independent determination of market value for the subject property.

Regarding Respondent's land sales analysis, Petitioner questioned Widmer's density adjustments for each land comparable sale. Specifically, Respondent's appraiser developed his own adjustment for density.¹⁰⁴ Next, the appraisal report included a mistake in the calculation of feasibility numbers.¹⁰⁵ Likewise, Widmer's report did not include an absorption analysis for residential lots and sales but considered this through building permits.¹⁰⁶ In essence, Respondent proved market demand but did not follow through with any additional analysis or data quantification. The use of a site condominium development (Ridge Hill) for analysis is unpersuasive. Site condominiums are not the same as 1-acre lots for a single-family residential development.¹⁰⁷ Likewise, a site condominium development (Mill Ridge) with attached duplex style dwellings is not comparative to single family sites. Petitioner's cross-examination of Widmer's analysis of developments with smaller lot sizes was persuasive.¹⁰⁸ Overall, Respondent's comparable developments have varied lot sizes, price points and dwellings.¹⁰⁹ On this basis, the validity of an absorption rate is diminished by the comparison of site condominium developments for the required 1-

¹⁰³ Appraisal Institute, *The Appraisal of Real Estate* (Chicago, 15th ed, 2020) 368.

¹⁰⁴ Vol 5, 185.

¹⁰⁵ Vol 5, 207-208, Vol 6, 6 and R-1, 82.

¹⁰⁶ Vol 6, 12, 37-38, 41-42.

¹⁰⁷ Vol 6, 19.

¹⁰⁸ Vol 6, 24.

¹⁰⁹ Vol 6, 31.

acre single family residential lots.¹¹⁰ Again, the land sales analysis did not include a capture rate, an absorption rate or horizontal development phases. Overall, Respondent's land sales analysis is abstractly theoretical as Petitioner's DCF. For these reasons, Respondent's vacant land sales analysis is given no weight or credibility in the independent determination of market value for the subject property.

CONCEPTUAL SITE PLAN REPORT

The conceptual site plan as devised by Petitioner's engineer has no application to the true cash value of the subject property. First, Petitioner's effort in distinguishing between *cost*¹¹¹ as a fact and *value*¹¹² as an economic principle is not persuasive. Petitioner argued Thompson's report was submitted outside of the valuation of the subject property. To the contrary, Thompson's review of the parties' appraisal reports appears to be an attempt to tie his site plan to the four tests of highest and best use. As Thompson stated, "Utilizing the concept site plan, we put together preliminary numbers on earthwork, storm sewer, sanitary sewer, water main, demolition, to total up a total valuation of what the land development improvement costs that we were estimating."¹¹³ The site plan coincidentally comes close to a valuation of the subject property. Second, the site plan for the subject's future residential development was refuted by Respondent as just conceptual. Thompson admitted to estimations and variations which did not have reasonable support. Regarding site preparation cost estimates, Thompson states,

"Yeah. It would always vary between a conceptual. I mean, that's the whole concept behind a conceptual estimate is we don't have a whole lot of information, so we do our best guess at the time based on the information we have. As we proceed through the entitlement process, those numbers

¹¹⁰ Vol 6, 35.

¹¹¹ Appraisal Institute, *The Dictionary of Real Estate* (Chicago: 6th ed, 2015), p 53.

¹¹² *Id.*, pp 243-244.

¹¹³ Vol 1, 115-116.

can be refined. Ultimately, as part of the closure permitting, we're required to provide cost estimate to the community to develop the fees for their reviews. So, we do - - often, we do two or three different cost estimates along the way related to the site development."¹¹⁴

An estimation of soft costs was noted at 18% and was based on an industry "general thumb". In deriving a home sale price for the subject's conceptual site plan, Thompson utilized a factor of 4 times the lot price and claims to have used this applied ratio in residential development for several years.¹¹⁵ With reference to horizontal costs for the subject as residential development, Petitioner's appraiser even admitted to "woefully inadequate numbers compared to Thompson's numbers."¹¹⁶ Third, Petitioner's concluded highest and best use analysis (as a public golf course) relied on the conceptual site plan showing the lack of financial feasibility as residential development. This reliance is misplaced given the misapplication of the conceptual report. Lastly, the report date for the conceptual site plan is January 25, 2021, which is removed from the subject's valuation date of December 31, 2018.¹¹⁷ Therefore, Petitioner's conceptual site plan is given no weight or credibility in the independent determination of market value for the subject property.

SUBJECT AS RESIDENTIAL DEVELOPMENT

Petitioner's appraiser agreed that a DCF is greatly influenced by its data inputs and assumptions. Rende acknowledged that variations in inputs will change results of a DCF.¹¹⁸ Further, he admitted that there is no support for his \$600/FF costs or the

¹¹⁴ Vol 1, 175.

¹¹⁵ Vol 1, 138-139.

¹¹⁶ Vol 2, 119.

¹¹⁷ Overall, the guess work and "rules of thumb" for a conceptual site plan while going back in time to the relevant tax day have a feel of "going back to the future".

¹¹⁸ Vol 3, 82-84.

\$500,000 costs for a new home. Yet, Rende further admitted that there is an error in the tax carry through his DCF model.¹¹⁹ For example, unbridled assumptions for \$125,000 lots and 25% from the \$500,000 home value were also presented without any market support or rationale. While admitting to the pitfalls of a DCF, Rende's conclusion of feasibility is based on the absorption period of +/- 13 years to complete the subject development at 11.5 unit sales per year. Petitioner's land valuation with a DCF is unpersuasive based on unsupported assumptions especially given the issue of entitlements. A retrospective tax date was compounded by unsupported prospective DCF criteria. Again, questions were raised over Petitioner's appraiser's verification of his land sales through the parties to each sale transaction.¹²⁰ As equally problematic, Rende had no sales history for his land sales. As questioned by Respondent, Rende's focus on a DCF for land absorption and not for land & improvements together is discrediting. A DCF for each improved site is applicable to an overall absorption rate. Lastly, the absence of customary write-up summaries for Petitioner's sales was not to be found in his report. Described characteristics and amenities are meaningful to sales adjustments aside from one's generic knowledge and experience. Petitioner's absorption analysis did not support the subject's financial feasibility for residential development. For these reasons, Petitioner's DCF and indication of value for the subject as a residential development are given no weight or credibility in the independent determination of market value for the subject property.

¹¹⁹ Vol 3, 78-79, 81.

¹²⁰ As previously discussed, there is a difference between a data source and a verification source. These types of sources are amply distinguished in appraisal practice and theory.

INCOME APPROACH (as public golf course)

Petitioner's income analysis is a conventional framework for the development of an income approach. However, the analysis has gaps, inconsistencies, contradictions, and omissions within the data.

First, Petitioner devised a 60/40 split between 9-hole play and 18-hole play.¹²¹ The acknowledgement of 9-hole starts, and 18-hole starts is confusing when the focal point is 18-hole equivalent rounds to carry through with the income analysis. Moreover, Petitioner's percentage breakdown was refuted by Respondent. Petitioner then used a 30/70 split to calculate total revenue of \$1,033,562.¹²² Admitting that the use of such creative methodologies did not bolster the thought of just analyzing 18-hole equivalents or just comparing the subject to other 18-hole golf courses. Likewise, attempting to compare and contrast golf course amenities along with the number of holes appears to be an overload. Analyzing similar golf course amenities through 18-hole equivalents may potentially gloss over lesser golf course amenities. Golf courses with varied number of holes only adds further complication to a reasoned and reconciled analysis.

Second, Petitioner acknowledged the subject's historical financial data but instead gathered other golf course financial data to derive a pro forma for a daily fee public golf course. There is a lack of understanding whether Petitioner's appraiser truly analyzed the subject's financials to the relevant market. Merely reviewing the subject's financials but utilizing other golf course data appears to be two separate actions that were not analyzed together. In other words, the Tribunal is not convinced that Petitioner

¹²¹ Vol 2, 44.

¹²² Vol 2, 54-55.

actually applied the subject's financial data to the relevant market. Petitioner's use of other golf course financial information infers that the subject's income/revenue is not commensurate with the relevant market. Petitioner's comparable expense ratios were fashioned on the basis of public golf courses aside from an income analysis for the subject as a private country club.

Third, regarding number of rounds, Petitioner omitted the differential between 18-hole equivalents and 18-hole starts.¹²³ Specifically, Petitioner's golf course data summaries were not labeled showing those 18-hole starts in turn to get the rounds played for a resulting revenue. Petitioner ultimately relied on 18-hole equivalents but begs the question whether this was an "apples to apples" comparison by analyzing 18 hole starts. The confusion is furthered by 9-hole and 18-hole starts for guests.¹²⁴ Petitioner's appraiser admitted to the lack of analysis in this regard.¹²⁵

Fourth, Petitioner's indicated rate for the subject is higher than all of its comparable golf courses except for three courses. When questioned about the difference between 27-holes versus 18-holes and overall revenue, Petitioner's appraiser responded that more holes may mean more maintenance and cost.¹²⁶ Respondent questioned whether Petitioner's revenue item for food and beverage included banquet facilities.¹²⁷ Similarly, expenses derived from the 2005-2008 NGF resulting in 30-35% of revenue did not include logical support from Petitioner's appraiser.¹²⁸ Petitioner's source reliance for an equipment expense from a 2015 conversation with the Coyote

¹²³ P-1, 84, 100-101.

¹²⁴ Vol 3, 162-163.

¹²⁵ Vol 3, 166.

¹²⁶ Vol 3, 190.

¹²⁷ Vol 3, 200.

¹²⁸ Vol 3, 203.

Creek golf course is equally unpersuasive.¹²⁹ The food and beverage expense was merely an estimate (without support) from Petitioner's appraiser.

Fifth, Petitioner admitted that the 4th Quarter 2018 Realtyrates for public golf courses was outdated information.¹³⁰ Moreover, there was no verification whether these national capitalization rates were reflective of golf courses in southeast Michigan. While the capitalization comparable sales were deemed to be confidential, basic information may still be disclosed for a better understanding of the data. Accepting an appraiser's responsibility for confidential information does not preclude the disclosure of innocuous information to help understand the expense analysis. Said differently, generic items would give the reader a general understanding of the underlying analysis without compromising confidentiality. For example, general location (SW Michigan, Mid-Michigan), single or multi-tenancy, building size, and building age would foster assurance for an "apples-to-apples" comparison. The expense data as presented is not meaningful to the overall income analysis. Further, Petitioner utilized capitalization comparables from other appraisers.¹³¹ Once again, data from other professionals still needs to be verified and justified by the appraiser receiving such information. When questioned whether one should speculate or rely on data, Rende responded, "I believe that you should do both because even if you have concrete data, you are still speculating as to what's appropriate for the subject." An appraiser's opinions, analyses, and conclusions are a result of market data. The refinement and articulation of data

¹²⁹ Vol 3, 206.

¹³⁰ P-1, 123.

¹³¹ Again, there is a distinct difference between a data source and a verification source. An appraiser's due diligence regarding data is important; an appraiser would not rely singularly on another appraiser's verification of data.

(i.e., quality and quantity) is more than “speculation” as suggested by Petitioner’s appraiser. Market data results in an informed opinion. On the other hand, the lack of data does not merely result in speculation or guessing.¹³² Petitioner’s capitalization rate analysis is deficient to the income analysis.

Overall, Petitioner’s appraiser admitted to numerous gaps in his information including vague statements without proper context. Petitioner’s appraisal report (without workfile support) lacked customary data support. Compounding this issue was dated information and sources.¹³³ Older data may be relevant to demonstrate the existence of similar property types in the market, but Petitioner’s loose haphazard development of older data is not meaningful and is quite misleading.

Arriving at stated conclusions is quite telling. In other words, income analysis indicators are not the sole issue but the support and narration for those elements is the issue. Extolling an appraiser’s income indicators does not give credence to the conclusion of value when the report does not display any support other than the appraiser’s knowledge, judgment, and experience. As previously discussed, a report must carry support and persuasion beyond conclusory statements. An expert’s testimony and documentary evidence must be weighed to determine credibility and reliability. Repeatedly, an appraisal report is based on the opinions, analyses, and conclusions of the appraiser. In this instance, the Tribunal cannot place reliance on conclusory statements based on an appraiser’s testified “experience and expertise” which nebulously refers to data not included in an appraisal report. “Perfection is

¹³² Minimizing guessing or speculation in valuation practice is aided by *hypothetical conditions* and *extraordinary assumptions*.

¹³³ Vol 3, 202. There is a difference between an expert’s speculation and opinion. The expectation that an opinion would be supported by market evidence is not unreasonable in light weight and credibility.

impossible to attain, and competence does not require perfection. However, an appraiser must not render appraisal services in a careless or negligent manner. This Standards Rule requires an appraiser to use due diligence and due care.”¹³⁴

Petitioner’s actions belie the importance of rendering a meaningful appraisal report. An appraiser’s opinions, analysis and conclusions do not come before the market data is developed. Therefore, Petitioner’s income analysis is given no weight or credibility in the independent determination of market value for the subject property.

Respondent’s income analysis for the subject property as a public golf course is reasonable aside from Petitioner’s refutations.¹³⁵ Respondent’s income analysis for the subject as a public golf course is meaningful to the analysis of highest and best use. More specifically, the subject as a public golf course was measured against the four tests of highest and best use. The existing golf course demonstrates that the subject use is physically possible and acceptable. Respondent’s extensive list of public and municipal golf courses demonstrates that the subject use is financially feasible and acceptable. Regardless of alleged gaps or inadvertent errors within Respondent’s income analysis (as pointed out by Petitioner), the income elements (operating revenues/expenses, NOI, capitalization rate) were meaningful. In other words, Respondent’s data and analysis illustrated the financial viability of the subject as a public golf course. However, as previously discussed within Petitioner’s highest and best use, Respondent’s legal feasibility test also fails. The assumption that the subject

¹³⁴ The Appraisal Foundation, *Uniform Standards of Professional Appraisal Practice* (Chicago: 2018-2019 Edition), p 15.

¹³⁵ Vol 6, 53, 62-63, 68, 75, 78, 100. The Tribunal also notes that Petitioner’s appraiser did not make adjustments for the differences in number of holes between golf courses to derive 18-hole equivalent rounds for a price per round of golf.

would be granted a variance for a public golf course is not an automatic. Neither appraiser's inference that the subject would be granted a variance for a public daily fee golf course was articulated and did not bolster the respective test for legal permissibility. For the subject to be maximally productive as a public golf course (or residential development) presupposes *hypothetical conditions*¹³⁶ and/or *extraordinary assumptions*¹³⁷ specifically overlooked by both appraisers. Neither of these alternative uses are reasonable as of December 31, 2018. Therefore, Respondent's income approach as a public golf course was considered but given no weight in the independent determination of market value for the subject property.

INCOME APPROACH (as a private country club)

From Respondent's income approach, revenue elements were presented for analysis. Respondent's analysis began with the subject's revenue from 2015 to 2018. The information was detailed and informative. Historical and forecasted revenues included an 18-hole equivalent for golf rounds, driving range, golf shop and food/beverage. Comparable golf courses were reviewed from 2010 to 2015 for market supported revenues. Respondent looked at models for a 10-mile, 15-mile and 20-mile radii to capture demographics and actual 18-hole equivalent rounds played. Market demographics were further analyzed through the Environmental Systems Research Institute (ESRI). Respondent's revenue considerations analyzed the subject's banquet facilities, pro shop sales, driving range, and food/beverages in the context of a private

¹³⁶ Appraisal Institute, *The Dictionary of Real Estate Appraisal* (Chicago: 7th ed, 2020) p 113.

¹³⁷ *Id.*, 83-84.

country club golf course. The analysis of market data was consistent with Respondent's market description and analysis.

Next, Respondent analyzed expenses from eight comparable properties but did not include specific detail due to confidentiality reasons.¹³⁸ However, Respondent presented the operating data for the Walnut Creek Country Club in detailed fashion.¹³⁹ Respondent's appraiser resourcefully obtained income data from this private country club. More specifically, as an example, the subject's average payroll expense of 69% (for 2107 and 2018) was analyzed to the market and Respondent reconciled the subject's payroll expense at 48%. Respondent analyzed the subject's operating statements and applied them to the market. An indication of NOI was rendered from overall revenues less operating expenses and presented in a logical fashion (with market support). Next, Respondent's research and analysis for a market supported capitalization rate from a debt coverage ratio, a band of investment technique and survey rates was meaningful. Respondent used a weighted average to determine a capitalization rate of 80% for low end sources and 20% for high end sources.¹⁴⁰ This analysis indicated the level of risk associated with the property. Respondent then deducted the value of the personal property from the going concern value to arrive at

¹³⁸ Both appraisers gave deference to the aspect of confidential information. Such acumen is common in valuation practice.

¹³⁹ As previously referenced, the data taken from *Walnut Creek Country Club v Lyon Township* (MTT Docket No. 17-002531) was integral to Respondent's income analysis. Said differently, this country club's financial information became publicly available and was aptly analyzed by Respondent's appraiser. Further, the Tribunal takes note that the *Walnut Creek* MTT Final Opinion and Judgment was affirmed by the Michigan Court of Appeals in an unpublished opinion (COA No. 351980) for the highest and best use analysis as a private country club. Obtaining information from private country clubs (as well as public golf courses) is often a daunting task for valuation professionals. As evidence of market data, the *Walnut Creek* financial information supports the analysis of the subject as a private country club golf course.

¹⁴⁰ Vol 6, 111-115.

the TCV of the real property. Therefore, Respondent's income approach is given weight and credibility in the independent determination of market value for the subject property.

INTANGIBLES - DEDUCTIONS

The issue of deducting intangibles from a going-concern value was discoursed by the parties. Regarding Petitioner's intangible deductions, Rende admitted to having no support for his estimate of \$25,000 for the liquor license deducted from the going-concern value.¹⁴¹ Further, Petitioner's personal property deduction from the going-concern value was not bolstered by persuasive testimony. The question was posed on cross-examination whether it was the personal property needed to operate the subject as a daily public fee golf course or just the personal property itself. Rende remarked, "I guess I can't say for certain because I don't know specifically what the personal property is."¹⁴² On the other hand, Petitioner wouldn't deduct intangibles from a going-concern value of a CC golf course because it would be complete speculation without support

Regarding business asset deductions from a going concern value, Respondent's explanation for a deduction of a portion of initiation fees is persuasive.¹⁴³ A partial dues deduction was taken in the calculation of operating revenues. In addition, Respondent determined that membership fees contributed to the operation of the real estate (clubhouse, tennis courts, swimming pools, golf course). Contrary to Petitioner's line of cross-examination, Respondent's appraiser did consider, analyze, and apply an

¹⁴¹ Vol 2, 95.

¹⁴² Vol 3, 217.

¹⁴³ Vol 6, 145-147.

intangible deduction for an item outside of the true cash value of the subject's real estate. Widmer took part of initiation fees and applied it to the value of the real estate. Again, Widmer's review and analysis of the Walnut Creek Country Club expenses as a comparison to the subject is persuasive. For these reasons, Respondent's intangibles deduction from the subject's going concern value is given weight and consideration in the independent determination of market value for the subject property.

CONCLUSION

The acknowledgment that the subject is a pristine "white glove" country club is noteworthy to this tax appeal matter. Contentions that the subject's real estate could not be separated from intangibles including membership fees was asserted by Petitioner. However, the Tribunal is not of the belief that parsing the real estate from a public daily fee golf course is entirely different from a private country club. More specifically, Petitioner failed to support deductions from the going-concern value of the subject as a public golf course. On the other hand, Respondent articulated its reasoning for deductions from the going-concern value of the subject as a private country club golf course. As noted by both parties' appraisers, the variations, elements, and amenities of golf courses (both public and private) make direct comparison difficult. It is incumbent upon an appraiser not only to gather market data, but to properly analyze that data. In general, more data is better than less data for analysis. However, it is necessary for an appraiser to articulate the quality and quantity of data in his/her opinions, analyses, and conclusions. Respondent analyzed the subject as a public golf course, as a private country club, and as residential development.¹⁴⁴ The subject's

¹⁴⁴ Vol 5, 109-111.

physical use as a private country club is manifested by its full membership (with a waiting list), a continuous financial history as a country club, and legal permissibility in light of substantial renovations immediately prior to the relevant tax day. Again, the subject is financially feasible as indicated by its full membership. These undisputed facts do not support the proposition that the subject is better suited as a public golf course. The success of the subject's private country club is the essence of maximally productive and is contrary to Petitioner's claim that the subject's highest and best use is as a public daily fee golf course. Petitioner's club manager admitted that the club members would not be inclined to sell the club. Petitioner's evidence is not more persuasive than Respondent's market description/analysis, ESRI compilations, and income analysis which demonstrates a greater level of due diligence and market knowledge.

The Tribunal finds, based upon the Findings of Fact and the Conclusions of Law set forth herein, that the parties' valuation evidence demonstrated that the subject property was over-assessed for 2019. Respondent's appraiser's analysis of market data and articulation to the subject was reasonably supported. Respondent's income approach to value provided the most credible and reliable evidence of market value for the subject property as a private country club. The subject property's TCV, SEV, and TV for the tax year(s) at issue are as stated in the Introduction section above.

JUDGMENT

IT IS ORDERED that the property's state equalized and taxable values for the tax year(s) at issue are AFFIRMED as set forth in the Introduction section of this Final Opinion and Judgment.

IT IS FURTHER ORDERED that the officer charged with maintaining the assessment rolls for the tax years at issue shall correct or cause the assessment rolls to be corrected to reflect the property's true cash and taxable values as finally shown in this Final Opinion and Judgment within 20 days of the entry of the Final Opinion and Judgment, subject to the processes of equalization. See MCL 205.755. To the extent that the final level of assessment for a given year has not yet been determined and published, the assessment rolls shall be corrected once the final level is published or becomes known.

IT IS FURTHER ORDERED that the officer charged with collecting or refunding the affected taxes shall collect taxes and any applicable interest or issue a refund as required by the Consent Judgment within 28 days of the entry of the Consent Judgment. If a refund is warranted, it shall, unless otherwise indicated, include a proportionate share of any property tax administration fees paid and of penalty and interest paid on delinquent taxes. The refund shall also, unless otherwise indicated, separately indicate the amount of the taxes, fees, penalties, and interest being refunded. A sum determined by the Tribunal to have been unlawfully paid shall, unless otherwise indicated, bear interest from the date of payment to the date of judgment and the judgment shall bear interest to the date of its payment. A sum determined by the Tribunal to have been underpaid shall not bear interest for any time period prior to 28 days after the issuance of this Consent Judgment. Pursuant to MCL 205.737, interest shall accrue (i) after December 31, 2013, through June 30, 2016, at the rate of 4.25%, (ii) after June 30, 2016, through December 31, 2016, at the rate of 4.40%, (iii) after December 31, 2016, through June 30, 2017, at the rate of 4.50%, (iv) after June 30,

2017, through December 31, 2017, at the rate of 4.70%, (v) after December 31, 2017, through June 30, 2018, at the rate of 5.15%, (vi) after June 30, 2018, through December 31, 2018, at the rate of 5.41%, (vii) after December 31, 2018 through June 30, 2019, at the rate of 5.9%, (viii) after June 30, 2019 through December 31, 2019, at the rate of 6.39%, (ix) after December 31, 2019, through June 30, 2020, at the rate of 6.40%, (x) after June 30 2020, through December 31, 2020, at the rate of 5.63%, (xi) after December 31, 2020, through June 30, 2022, at the rate of 4.25%, and (xii) after June 30, 2022, through December 31, 2022, at the rate of 4.27%.

This Final Opinion and Judgment resolves all pending claims in this matter and closes this case.

APPEAL RIGHTS

If you disagree with the final decision in this case, you may file a motion for reconsideration with the Tribunal or a claim of appeal with the Michigan Court of Appeals.

A Motion for reconsideration must be filed with the required filing fee within 21 days from the date of entry of the final decision.¹⁴⁵ Because the final decision closes the case, the motion cannot be filed through the Tribunal's web-based e-filing system; it must be filed by mail or personal service. The fee for the filing of such motions is \$50.00 in the Entire Tribunal and \$25.00 in the Small Claims Division, unless the Small Claims decision relates to the valuation of property and the property had a principal residence exemption of at least 50% at the time the petition was filed or the decision

¹⁴⁵ See TTR 261 and 257.

relates to the grant or denial of a poverty exemption and, if so, there is no filing fee.¹⁴⁶

A copy of the motion must be served on the opposing party by mail or personal service or by email if the opposing party agrees to electronic service, and proof demonstrating that service must be submitted with the motion.¹⁴⁷ Responses to motions for reconsideration are prohibited and there are no oral arguments unless otherwise ordered by the Tribunal.¹⁴⁸

A claim of appeal must be filed with the appropriate filing fee. If the claim is filed within 21 days of the entry of the final decision, it is an “appeal by right.” If the claim is filed more than 21 days after the entry of the final decision, it is an “appeal by leave.”¹⁴⁹ A copy of the claim must be filed with the Tribunal with the filing fee required for certification of the record on appeal.¹⁵⁰ The fee for certification is \$100.00 in both the Entire Tribunal and the Small Claims Division, unless no Small Claims fee is required.¹⁵¹

By 

Entered: September 30, 2022

¹⁴⁶ See TTR 217 and 267.

¹⁴⁷ See TTR 261 and 225.

¹⁴⁸ See TTR 261 and 257.

¹⁴⁹ See MCL 205.753 and MCR 7.204.

¹⁵⁰ See TTR 213.

¹⁵¹ See TTR 217 and 267.